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Mr. Ernest Johnson
Director for Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

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NR

**Re: Proposed Rules regarding Applications for and Extensions of
CC&N's for Water and Wastewater Companies**

Dear Mr. Johnson:

On behalf of Robson Communities, Inc. (RCI) and its affiliated water and wastewater companies, we appreciate the opportunity to comment on the rule changes and look forward to working with the Commission and Staff on this matter. RCI's affiliates develop active adult communities in Maricopa, Pima and Pinal Counties. In addition, other RCI affiliates provide water and wastewater service to RCI communities, as well as other neighboring areas. As such, we are interested in the adoption of rules that clarify the Commission's requirements and reinforce principles central to the CC&N process.

There are a number of positive steps the Commission can take in the area of water use and water conservation, recognizing that the direct regulation of such uses is the responsibility of the Arizona Department of Water Resources (ADWR). The Commission has already positively influenced usage in a number of ways appropriate with its mission, such as curtailment plans and tiered water usage rates. In addition, there are opportunities to address cost recovery for implementation of water conservation practices and to provide incentives for reclaimed water use. Also, we strongly support the Commission's policy of integrating water and wastewater services under a single provider and believe that integrated providers are best suited to maximize water resources and cost efficient delivery of utility service.

RCI is very concerned about the direction of the proposed rule changes primarily in terms of water use and conservation measures. The proposed rules require applicants to submit information on water uses such as "golf courses, ornamental lakes, other aesthetic water features, greenbelts, or parks" and "plans for water conservation measures." RCI is concerned that this information will lead to prohibitions on the otherwise legal use of groundwater to supply the listed uses. Such additional requirements imposed by the Commission could result in regulations which conflict with those imposed by ADWR.

Regulation of groundwater use and conservation is appropriately addressed by ADWR which has the technical expertise and a full array of regulatory programs in these areas including:

- The Assured Water Supply Program which assures that developments inside active management areas (AMA) have sufficient water and that long-term reliance on groundwater supplies is subject to replenishment with renewable supplies.
- Water providers are required to submit drought plans to ADWR annually.
- Limitations that are placed on the amount of "lost and unaccounted for" water, thereby requiring water providers to address issues such as water leaks in streets.
- Outside of AMA's, there is new legislation led by ADWR aimed at assuring that subdivisions can be required to demonstrate adequate supplies.
- Several programs that address conservation by water providers and uses of ground water on golf courses, lakes and open spaces areas.

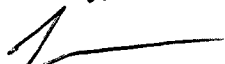
Prohibiting the delivery of groundwater from the provider to golf courses, lakes and other water features will have negative impacts on water conservation and regulation. For example, if groundwater use is prohibited for these facilities and they rely totally on reclaimed water, these facilities are essentially unregulated by ADWR and can use unlimited amounts of reclaimed water for these purposes. A better approach is to have initial groundwater so that the most restrictive regulations are in place until effluent is available. Another concern with the groundwater prohibition is that if the facilities cannot obtain groundwater supplies from the utility, they will seek to self-serve with their own wells that are outside of the provider's supplies resulting in a lost opportunity for these uses to be served with effluent. This result would undermine the Commission's desire to maximize the beneficial use of effluent.

We are concerned that a water use prohibition as implied in the proposed rules will result in a land use prohibition that goes to the heart of RCI's developer interests and business model. Allowing the use of groundwater as a bridge supply is essential for us in developing new residential subdivisions for our active adult market with golf courses because there would be no reclaimed water supplies available initially without a residential customer base—customers who look for amenities such as golf courses in making home purchasing decisions. Water use by these features is offset in our communities by the fact that our residents rarely have private swimming pools, generally elect to have low water use landscaping in their yards cannot have children permanently residing in the home, and have low occupancy rates in the summer when water demand is highest.

We are also concerned with the implications of the proposed rule regarding information on how reclaimed water will be used for wastewater CC&N applications. RCI has been a pioneer in the reuse and recharge of effluent. As a wastewater utility, our primary concern in establishing a new utility is identifying the most suitable method of effluent disposal. In our experience, maximizing direct reuse and then recharging any excess effluent has been the most efficient way to handle disposal. However, the best method of effluent disposal is unique for each area we have served and there are many complex factors that must be considered. The location of service, available sites and methods for reuse, conditions of the aquifer at specific locations, safety and potential for exposure to the public, feasibility of recharge, proximity to surface waters, and cost are all critical factors in determining how reclaimed water disposal should be handled. In our opinion, effluent delivery via "purple pipes" to residential homes is not a viable option because of the inefficiencies and safety issues involved with this method of effluent disposal. Given these factors, we believe the selection of the best method of reclaimed water disposal is best left to the utility. Of course, when reclaimed water is delivered to the public, it remains the Commission's responsibility to oversee the terms and conditions of that service, including setting applicable rates.

In addition to our comments highlighted here, we are providing the attached list of detailed comments from RCI for each of the proposed rule changes. Over the years, I have enjoyed working closely with both the Commission members and the Staff on issues associated with our water and wastewater companies and look forward to continuing to do so in this rulemaking process. If you have any questions or would like to discuss our comments, please feel free to give me a call.

Sincerely,



Jim Poulos

Enclosures

cc: Mike Gleason, Commission Chairman, ACC
William A. Mundell, Commissioner, ACC
Jeff Hatch-Miller, Commissioner, ACC
Kristin K. Mayes, Commissioner, ACC
Gary Pierce, Commissioner, ACC

ROBSON COMMUNITIES' COMMENTS ON
PROPOSED CHANGES TO RULES REGARDING APPLICATIONS FOR
CC&N'S AND CC&N EXTENSIONS FOR WATER AND WASTEWATER
COMPANIES; RW-00000B-07-0051 and RSW-00000A-07-0051

The following comments on the proposed changes to A.A.C. R14-2-402 *et seq.* and R14-2-602 *et seq.* of the Arizona Administrative Code (the "Rules") related to applications for new Certificates of Convenience and Necessity ("CC&N") and extensions to CC&N for water and wastewater utilities are being submitted on behalf of Robson Communities, Inc. and its affiliated water and wastewater utilities, including Ridgeview Utility Company, Pima Utility Company, Lago del Oro Water Company, Saddlebrooke Utility Company, Quail Creek Water Company, Mountain Pass Utility Company, Picacho Water Company, Picacho Sewer Company, Santa Rosa Water Company and Santa Rosa Utility Company (collectively referred to herein as "RCI"). RCI appreciates this opportunity to comment on the proposed rule changes and look forward to continuing to work with the Commission and Staff on the development of these rules.

I. General Comment.

RCI generally supports the Commission's efforts to clarify the requirements related to applications for CC&N's and extensions to CC&N's. However, RCI has concerns regarding several of the proposed rule changes that address substantive requirements that are currently within the purview of other state agencies. In particular, RCI is concerned with provisions related to water use characteristics that request information on issues directly regulated by the Arizona Department of Water Resources ("ADWR") (especially under its water conservation and assured water supply requirements) and the Arizona Department of Environmental Quality ("ADEQ") (especially under its infrastructure and construction standards). In many cases, the information proposed to be required does not appear necessary to make a determination as to the appropriateness of granting a CC&N. RCI's concern is that requesting this information in every single case suggests that the Commission is planning to impose as a matter of policy requirements (e.g., for water conservation or groundwater use) that differ from those imposed by the agencies with primary jurisdiction over those matters. If that occurs, it would likely represent one or more significant policy choices with major implications for the regulated community. If the proposed rules do presage such policy decisions, then RCI strongly believes that those decisions are significant enough that they should be articulated clearly and in a forum allowing for public comment prior to their adoption. Ultimately, RCI is concerned about the possibility for inconsistent regulation between agencies (e.g., the Commission adopting in a non-regulatory fashion requirements that differ substantially from, and are possibly inconsistent with, those of other agencies with the primary statutory charge to address a particular issue).

The balance of this document presents RCI's comments on specific portions of the proposed revisions to the Rules.

II. Specific Comments.

A. Rule changes relating to Water Use Characteristics and ADWR's Assured and Adequate Water Supply Determinations—R14-2-402(A)(2)(q) and (u).

The proposed changes to these rules would require the submission of information that is not essential to the determination of whether to grant a new or extended CC&N. In addition, these provisions represent the clearest example of RCI's concern that the Commission may be intending to regulate matters already comprehensively regulated by another agency (in this case, ADWR), and to do so in a manner that may not be consistent with the other agency's rules. Finally, the rules should not require that ADWR approvals be obtained prior to submitting a CC&N application.

(a) Proposed R14-2-402(q) would require applicants for new or expanded CC&N's to submit "[a] detailed description of how water will be provided for golf courses, ornamental lakes, other aesthetic water features, greenbelts, or parks within the area under application." RCI questions the relevance of this information to making a determination regarding a request for a new or expanded CC&N. The relevant inquiries for issuance of a CC&N are: (1) whether there is a "need and necessity" for the utility service; and (2) whether the applicant is "fit and proper" to hold the CC&N. The rules should focus on the information needed to answer these questions. The additional information that the Commission is seeking to have applicants submit is not essential to either of these inquiries, and therefore should not be required.

(b) Moreover, RCI is concerned that the information specified will be used to establish water use conditions in CC&N orders that raise significant policy questions. Recently, RCI has observed that the Commission has included conditions in CC&N orders that address water use issues and limit groundwater service. RCI is worried that the proposed rule language reflects a move by the Commission toward making this a standard condition in future orders.¹ Such an approach could result in conflict with programs at ADWR, which already comprehensively regulates groundwater use and conservation through a full array of regulatory programs, including:

- The Assured Water Supply Program, which assures that development inside active management areas (AMA) have sufficient water and that long-term reliance on groundwater supplies is subject to replenishment with renewable supplies.

¹ The condition is a blanket prohibition on the service of groundwater for certain water use features and is sometimes called the "drought condition," as the rationale for imposing the condition in the CC&N orders has been the Commission's concerns related to "drought." See Decision 69174, *In the Matter of the Application of Picacho Water Company for an Extension of its Certificate of Convenience and Necessity in the City of Eloy in Pinal County*, Docket No. W-03528A-06-0313. RCI has objected to the insertion of these water use conditions and continues to do so.

- A requirement for water providers to submit drought plans to ADWR annually.
- Limitations that are placed on the amount of “lost and unaccounted for” water, thereby requiring water providers to address issues such as water leaks in streets.
- New requirements (assuming that ADWR-sponsored legislation is passed) designed to ensure that subdivisions outside of AMAs can be required to demonstrate adequate water supplies. *See S.B. 1575, State of Arizona Senate, 48th Legislature, First Regular Session (2007).*
- Several programs that address conservation by water providers and uses of groundwater on golf courses, lakes and open space areas.

Routinely imposing a drought condition (prohibiting even temporary groundwater use for certain water features) is problematic in several respects as a matter of water policy and also reflects an approach that is inconsistent with the carefully balanced choices reflected in ADWR’s comprehensive regulatory programs. For example, prohibiting the delivery of groundwater from a provider to golf courses, lakes and other water features could actually have negative impacts on water conservation. If groundwater use is prohibited and these facilities must rely totally on reclaimed water, then they will be essentially unregulated by ADWR and can use unlimited amounts of reclaimed water for these purposes. In terms of overall water conservation, this is not a desirable result. RCI believes a better approach is to allow initial groundwater use in these features so that the most restrictive quantity regulations are in place until sufficient effluent is available.

Another concern with the groundwater prohibition is that if the facilities cannot obtain groundwater supplies from the utility, they will seek to self-serve with their own wells that are outside of the provider’s supplies, resulting in a lost opportunity for these uses to be served with effluent. This result would undermine the Commission’s desire to maximize the beneficial use of effluent.

In addition, RCI is concerned that a water use prohibition as implied in the proposed rules will as a practical matter result in a land use prohibition that goes to the heart of RCI’s developer interests and business model. Allowing the use of groundwater as a bridge supply is essential for RCI in developing new residential subdivisions for its active adult market with golf courses. In the absence of groundwater as a bridge supply, features such as golf courses and associated lakes could not exist in the early years of development because adequate effluent would not be available. That absence, in turn, would significantly limit the pool of potential home purchasers, and make the long term viability of the projects more uncertain, by discouraging precisely the sort of buyers that RCI seeks for its active adult communities —customers who look for amenities such as golf courses in making home purchasing decisions. Water use by these features is offset in our communities by the fact that our residents rarely have private swimming pools, generally elect to have low water use landscaping in their yards cannot have children

permanently residing in the home, and have low occupancy rates in the summer when water demand is highest.

(c) Finally, RCI objects to these portions of the proposed Rules to the extent they are intended to impose a requirement to obtain ADWR determinations as a “pre-condition” to the issuance of a CC&N or extension. It has been the Commission’s practice to condition CC&N orders on obtaining the necessary ADWR approvals. This practice has allowed applicants to independently seek these approvals from ADWR without undue delays in completing the application for CC&N’s. Although RCI supports applicants submitting as part of the CC&N application information on the “status” of any such applications filed with ADWR, it does not believe obtaining these approvals should be a prerequisite to applying for a CC&N. Such a requirement has the potential to add many months to the overall regulatory approval process without providing any concrete benefit.

In conclusion, RCI believes that these changes will not add any clarity to the Commission’s CC&N requirements, but rather seek information not relevant to the determination of whether to grant a CC&N and increase the likelihood of duplicative or inconsistent regulation with ADWR.

B. Rule changes regarding Water Conservation Measures—R14-2-402(A)(2)(r).

Proposed R14-2-402(A)(2)(r) requests information on “plans for water conservation measures.” RCI is concerned that this information is being requested for the purposes of establishing water conservation policies by the Commission and that to do so will lead to inconsistent regulations from those in place under ADWR’s water conservation programs. For this reason, RCI objects to proposed rule R14-2-402(A)(2)(r). Pursuant to its statutory authority under the Groundwater Code and ADWR’s water management plans, ADWR regulates water providers including private water companies. ADWR’s conservation programs are thorough, detailed, and quite restrictive, and were arrived at through an extensive public process that thoroughly analyzed all relevant considerations and viewpoints. As the primary state agency charged with addressing water conservation matters, ADWR has the expertise and staff to develop and implement the types of complex regulatory programs necessary to best address water conservation. ADWR has already begun developing conservation program requirements aimed at assuring the implementation of water management practices and reduction in water consumption rates. The Commission should rely on the abilities and talent of ADWR’s staff in regulating its water conservation programs. There is no need for the Commission to seek to introduce additional regulation that may potentially conflict with ADWR’s current or future requirements.

Finally, RCI is concerned that additional water conservation requirements suggested by these rules would be imposed on only private water companies. Other providers will only be required to meet ADWR program standards. This will result in additional costs for water customers within areas served by private companies.

For these reasons, RCI objects to this draft rule. RCI believes this rule will not clarify the Commissions requirements, but merely seeks information not relevant to the determination of whether to grant a CC&N and will increase the likelihood of duplicative or inconsistent regulation with ADWR.

C. Proposed rule on Effluent Use for Wastewater CC&N's—R14-2-602(A)(2)(r).

Proposed R14-2-602(A)(2)(r) requires submission of information on how effluent will be used for wastewater CC&N applications. RCI is concerned that this rule is intended to regulate the methods of effluent disposal and that this will negatively impact the ability of utilities to effectively evaluate effluent disposal options. RCI has been a pioneer in the reuse and recharge of effluent. As a wastewater utility, its primary concern in establishing a new utility is identifying the most suitable method of effluent disposal. Typically, maximizing direct reuse and then recharging any excess effluent has been the most efficient way to handle disposal. However, the best method of effluent disposal is unique for each area and there are many complex factors that must be considered. The location of service, available sites and methods for reuse, conditions of the aquifer at specific locations, safety and potential for exposure to the public, feasibility of recharge, proximity to surface waters, and cost are all critical factors in determining how reclaimed water disposal should be handled. Effluent delivery via "purple pipes" to residential homes is not a viable option because of the inefficiencies and safety issues involved with this method of effluent disposal. Given these factors, the selection of the best method of reclaimed water disposal is best left to the utility. Of course, when reclaimed water is delivered to the public, it remains the Commission's responsibility to oversee the terms and conditions of that service, including setting applicable rates.

For these reasons, RCI objects to this draft rule. RCI believes this rule will not clarify the Commissions requirements, but merely seeks information not relevant to the determination of whether to grant a CC&N and limits the ability of utilities to select the best disposal method for a particular circumstance.

D. Rules regarding Water and Wastewater Facility Construction Standards in place at ADEQ—R14-2-402(A)(2)(c) and R14-2-602(A)(2)(c).

RCI opposes these provisions. The proposed rules require very specific engineering reports, which often are not available at the early stage of planning and making an initial application to serve a new area. It would be unduly costly and a waste of resources to engage in the planning of construction details for infrastructure and facilities before the ability to legally serve has been determined. In addition, as the draft rule language states, ADEQ already has regulatory authority over the adequacy of engineering and construction designs, as well as the professional expertise to review the reports and assure that all necessary facilities are constructed to specified standards. Furthermore, both proposed R14-2-402(A)(2)(c) and R14-2-602(A)(2)(c) suggest that there is a separate standard-- independent from the ADEQ construction standards—that applicants must meet (i.e., the "requirements of the Commission"). However, the rule

does not state what those other "requirements" are in relation to construction standards for facilities. Such an undefined requirement is likely to lead to continuously changing standards and requests for additional submittals in the application process. The Commission should follow its past practice and rely on the approval of ADEQ in such matters, or, at a minimum, expressly define in the rules the standards for the Commission's approval of engineering reports.

E. Comments on additional supporting documentation for applications—R14-2-402(A)(2) and R14-2-602(A)(2).

1. Comments on proposed rules regarding additional information for water CC&N's:

R14-2-402(A)(2)(b) Organizational Documentation	Not needed for CC&N extensions, as such information is already on file with Commission.
R14-2-402(A)(2)(c) Facility Engineering Reports	Engineering reports should remain domain of ADEQ approval, rules should require compliance with ADEQ requirements at appropriate time, not specific engineering reports before CC&N is issued. See detailed comment above.
R14-2-402(A)(2)(d) and (e) Cost estimates and Financial Condition	What is the level of detail intended? In the past, RCI has submitted debt/equity analysis for financial requirements. Similar demonstrations should remain acceptable.
R14-2-402(A)(2)(g) Operating Revenues	5 year projections of revenues and expenses should be sufficient demonstration for this rule.
R14-2-402(A)(2)(i) Requests for Service	RCI strongly supports a demonstration that there has been consent and requests for service within the CC&N or extension area. It is important that before the Commission grants a right to serve, there is landowner consent to such service. To simplify the rules, along with the requests, applicants should submit the location of the parcel(s) requesting service and identify the owner of those parcel(s).
R14-2-402(A)(2)(j)(iii) Owner of parcels within service area	To simplify the rules, this information be combined with the requests for service requirements under R14-2-402(A)(2)(i).

R14-2-402(A)(2)(j)(iv) City/Town corporate limits within 1 mile	RCI opposes this requirement. What is the relevance to the Commission's review of the proximity of a city or town's boundary when the application area is located "outside" of the corporate limits? The relevant inquiry is whether the area to be served is outside of a city or town. The rule should be revised to simply request such confirmation.
R14-2-402(A)(2)(j)(v) Service area of public service corporation within 1 mile	What is the relevance of this information? If any such entities do not have an existing service right to cover the land within the application area, proximity to the requested area should not be part of the substantive criteria reviewed by the Commission. This information should not be part of the application.
R14-2-402(A)(2)(j)(vi) Existing service area connections within service area	How will applicants obtain this type of information if it is not readily available? The rule should be revised to clarify that such information be submitted only if available and known to the applicant.
R14-2-402(A)(2)(j)(vii) Locations of Developments within service area	For efficiency, this information should be combined with the map requirement (i.e. map identifies the developments to be served) under R14-2-402(A)(2)(i) and deleted here.
R14-2-402(A)(2)(j)(viii) Location of Facilities	For efficiency, facility location can be provided along with general description of the construction facilities/engineering report under R14-2-402(A)(2) and deleted here.
R14-2-402(A)(2)(j)(ix) Location of Parcels with Requests for Service	For efficiency, this information should be combined with request for service information under R14-2-402(A)(2)(i).
R14-2-402(A)(2)(p) Name of waste water provider	RCI strongly supports an integration of water and wastewater service. Resources and costs can be better managed when a single entity has the ability to plan water and wastewater systems for an area.

R14-2-402(A)(2)(q) Water uses like golf courses, lakes, water features, greenbelts, parks	RCI strongly objects to this requirement. See detailed comments above. This requirement could lead to inappropriate restrictions on land uses and could infringe on development rights. In addition, this information is not relevant to the grant of CC&Ns to water companies. Statewide regulations are already in place to address water conservation and groundwater use. The Commission should rely on ADWR's regulation and not seek to regulate the rights of landowners to develop lands for particular uses.
R14-2-402(A)(2)(r) Water Conservation	RCI strongly objects to this requirement. See detailed comments above. The conservation program in place at ADWR is adequate and the Commission should not single out private water companies from all other providers for additional layers of potentially conflicting regulation.
R14-2-402(A)(2)(u) ADWR Assured Water Supply Requirements	RCI strongly objects to this requirement. The current practice, has been for the Commission to condition CC&N orders on obtaining the appropriate assured water supply approval from ADWR. This practice has worked to date, and there is no need to require completion of these approvals before CC&N grants. See detailed comment above.
R14-2-402(A)(2)(v) ADEQ Compliance Report	This requirement should only apply for existing CC&N's where water service has been initiated (not extensions to CC&Ns where service has not begun). Also, in practice we suggest that 90 days is an appropriate time frame because it can take some time to obtain the reports for from ADEQ.

2. Comments on proposed rules regarding additional information for wastewater CC&N's:

R14-2-602(A)(2)(b) Organizational Documentation	Not needed for CC&N extensions, as such information is already on file with Commission.
R14-2-602(A)(2)(c) Facility Engineering Reports	Engineering reports should remain domain of ADEQ approval; Commission rules should require compliance with ADEQ requirements at appropriate time, not specific engineering reports before CC&N is issued. See detailed comment above.
R14-2-602(A)(2)(d) CWA Section 208 Plan	<p>The current practice is for CC&N's (and CC&N extensions) to be conditioned on Section 208 Plan approvals that often follow later. This practice has appropriately allowed applicants flexibility in timing the approval of both the CC&N and Section 208 Plans. The Commission should continue its current practice and ask applicants to submit information on the status of Section 208 approvals, and issue conditional CC&N orders requiring the approvals be obtained after the CC&N process is complete. RCI objects to the proposed rule language requiring submission of approved Section 208 Plans at the time of application.</p> <p>Note: the rule language suggests that 208 Plans and amendments are "issued" by ADEQ; this is not reflective of the actual Section 208 approval process in most cases.</p>
R14-2-602(A)(2)(e) and (f) Cost estimates and Financial Condition	What is the level of detail intended? In the past, RCI has submitted debt/equity analysis for financial requirements. Similar demonstrations should remain acceptable.
R14-2-602(A)(2)(i) Construction Phasing	Proposed rule indicates that construction phasing shall be described in detail. However, at the time of making a CC&N application, which is rather early, it is often difficult to have all aspects of phasing and construction fully identified. The rules should reflect an applicant's need to retain some flexibility in construction phasing.
R14-2-602(A)(2)(j) Requests for Service	Again, as noted above, RCI strongly supports a demonstration that there has been consent and requests for service within the CC&N or extension

	<p>area. It is important that before the Commission grants a wastewater CC&N or extension, landowners have consented to such service. For the sake of simplicity, the rule should consolidate this information with location of the parcel requesting service and identification of the owners of those parcels under a single rule provision.</p>
R14-2-602(A)(2)(q) Name of Water Provider	<p>Again, RCI strongly supports an integration of water and wastewater service. Resources and costs can be better managed when a single entity has the ability to plan water and wastewater systems for an area.</p>
R14-2-602(A)(2)(r) Use of Effluent	<p>RCI objects to this provision. What is the relevance of this information to providing wastewater services? Use of effluent is regulated by ADEQ, and in some cases ADWR. Based on the particular needs of a water system, effluent use can take many different forms. Regulating effluent uses is not related to the Commission's regulation of the wastewater services and rates or its grant of a CC&N. Utilities should be allowed to continue to make case-by-case determinations of what is an appropriate method for disposal of effluent in the service area given the individual circumstances of a particular system.</p>

**F. Comments regarding rule provisions related to CC&N extensions—
R14-2-402(A) and (C); R14-2-406(A) and (B).**

It appears that applicants for an extension or addition that is contiguous to an existing CC&N are only required to submit the information identified in proposed R14-2-402(C) for water CC&N's and R14-2-602(B) for wastewater CC&N's, and are not required to submit the items listed under proposed R14-2-402(A) and R14-2-602(A), respectively. Please confirm this understanding of the proposed new rules.

Second, as a general comment, whenever possible the rules should not require CC&N extension applicants to re-submit information related to requirements already established when the original CC&N application was made. For example, the proposed rules require extension applicants to submit evidence of the applicant's financial condition. (See proposed R14-2-402(A)(e) and R14-2-602(A)(f).) If there has been no material change in the applicant's financial condition since the original CC&N was granted, an applicant should not have to re-submit essentially the same information for an extension application. Similarly, proposed R14-2-402(A)(b) and R14-2-602(A)(b) request copies of the Articles of Partnership or Articles of Incorporation and/or Bylaws. Again, applicants for extensions should not be required to re-submit these types of documents; as holders of prior CC&N grants this information would already be on file with the Commission. RCI believes that these types of changes will help streamline the application process.

III. Conclusion.

In general, RCI supports the Commission's efforts to clarify the rules for issuance of CC&N's and CC&N extensions for water and wastewater companies. However, for the specific reasons outlined above, several of the proposed rule changes raise issues that will result in confusion and conflict with the regulatory requirements already in place at other state agencies. Water resource, conservation and supply issues are adequately addressed by ADWR, the state agency given regulatory authority for all water providers in these areas. Similarly, the current standards in place at ADEQ regarding water and wastewater facility construction are also adequate.

For these reasons, it is not necessary for the Commission to depart from its long-standing practice of reliance on appropriate state agency regulators for these highly specified areas of expertise. Requiring Commission review of issues already being regulated by other agencies would at best create confusion, and at worst could potentially undermine the regulatory programs in place with those other agencies. Therefore, RCI respectfully asks the Commission and Staff to re-evaluate the need for these "policy" related rule changes. Both ADWR and ADEQ are more than capable of adequately implementing their respective regulatory programs and there is no need for the Commission to seek to regulate essentially the same subject matter.

As noted above, we look forward to continuing to work with the Commission and Staff as these rules are finalized. Thank you again for the opportunity to comment on the proposed rule changes.